

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

GUARANTY NATIONAL INSURANCE CO.,

Plaintiff,

v.

CIVIL ACTION NO. 1:04-1006

NADINE MORGAN, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending before the court are a number of motions including: 1) plaintiff's motion to strike the amended counterclaim (doc. # 7); 2) plaintiff's motion to set aside initial time requirements and to delay entry of the timeframe order (doc. # 13); 3) a motion by Gloria Stephens to withdraw as counsel for Billy Haney (doc. # 16); and 4) plaintiff's motion to dismiss the counterclaim (doc. # 20). On November 15, 2004, a status hearing was held in this matter. The court's rulings on certain of these motions follow.

As the court noted at the hearing, it appeared that Ms. Stephens had an actual conflict of interest and, accordingly, it was compelled to grant her motion to withdraw.\* The court also gave Mr. Haney thirty (30) days in which to obtain new counsel or to inform the court whether he intended to proceed pro se. Mr. Haney, however, was not in attendance at the hearing. For reasons appearing to the court, Mr. Haney has until July 11, 2005, to inform the court whether he intends to proceed pro se or

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\* The Clerk is directed to terminate that motion per this Order.

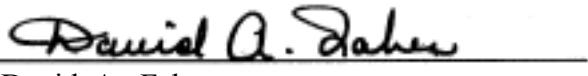
has retained new counsel. Upon conclusion of this thirty-day period, the court will consider the motions to strike and dismiss his counterclaim. FAILURE ON THE PART OF MR. HANEY OR AN ATTORNEY ON HIS BEHALF TO INFORM THE COURT REGARDING HIS INTEREST IN PROSECUTING HIS COUNTERCLAIM WITHIN THE REQUIRED TIMEFRAME MAY RESULT IN THE DISMISSAL OF HIS COUNTERCLAIM.

Until the court has resolved the issue of whether Mr. Haney has counsel, it is appropriate to suspend the current deadlines contained in the order and notice and the motion to that effect is hereby GRANTED.

The Clerk is directed to send copies of this Memorandum Opinion and Order to counsel of record, Billy Haney, P.O. Box 292, Roderfield, West Virginia 24881, via certified mail, return receipt requested, Nadine Morgan, c/o Denny F. Morgan, Jr., Esq., Route 10 North, P.O. Box 490, Pineville, West Virginia 24874, via certified mail, return receipt requested, and Cody Morgan, c/o Angela Long, WV Department of Health and Human Resources, 840 Virginia Ave., Welch, West Virginia 24801, via certified mail, return receipt requested.

IT IS SO **ORDERED** this 10th day of June, 2005.

ENTER:

  
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David A. Faber  
Chief Judge